

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

## RALPH W. SIMPSON.

Plaintiff,

V.

MICHAEL J. ASTRUE, Commissioner of  
Social Security

Defendant.

Case No. C09-5357BHS

ORDER OVERRULING  
PLAINTIFF'S OBJECTIONS AND  
ADOPTING REPORT AND  
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 16) and Plaintiff's Objections to the Report and Recommendation (Dkt. 17).

On June 16, 2009, Plaintiff Ralph W. Simpson filed a complaint seeking judicial review of an Administrative Law Judge’s (“ALJ”) denial of Plaintiff’s application for Disability Insurance Benefits and Supplemental Security Income benefits. Dkt. 1. On February 2, 2010, Judge Creatura issued a Report and Recommendation and recommended that the Court should affirm the ALJ’s decision. Dkt. 16. On February 16, 2010, Plaintiff filed objections to the Report and Recommendation. Dkt. 17.

Plaintiff argues that Judge Creatura did not address Plaintiff’s arguments regarding the ALJ’s rejection of Dr. Jordan Firestorm’s medical opinion that “sitting, standing, and walking should alternate through a workday.” *Id.* at 1-3. The error, however, lies in Plaintiff’s mischaracterization of Dr. Firestorm’s evaluation of Plaintiff. The ALJ gave “significant weight” to the opinion of Dr. Firestorm. Dkt. 8, at 15 (Administrative Record).

## ORDER - 1

1 Moreover, Judge Creatura addressed the ALJ's assessment of Dr. Firestrom's opinion. Dkt.  
2 16 at 5. Therefore, Plaintiff's objection that "significant probative evidence" was ignored, is  
3 overruled.

4 The Court having considered the Report and Recommendation, Plaintiff's objections,  
5 and the remaining record, does hereby find and order:

6 (1) The Court **OVERRULES** Plaintiff's Objection;  
7 (2) The Court **ADOPTS** the Report and Recommendation; and  
8 (3) The administrative decision denying Plaintiff's application for benefits is

9 **AFFIRMED.**

10 DATED this 3<sup>rd</sup> day of March, 2010.

11   
12 BENJAMIN H. SETTLE  
13 United States District Judge